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SUBJECT: NIGERIA: OIL REVENUE ALLOCATION ISSUE UNRESOLVED

REF: A. 02 ABUJA 2768

[B](#). 02 ABUJA 1194

[C](#). 01 ABUJA 997

[1](#)1. Summary. This cable provides an update on the ongoing disagreement between the Presidency and National Assembly over the politically sensitive oil revenue allocation issue. This matter is important not just because of the money at stake and the potential impact on the financial well-being of the nine affected coastal states. The resolution of this issue will also provide insight to the workings of Nigerian federalism, separation of powers, and constitutional law.

[1](#)2. The President's bill to reverse the effects of a 2002 Supreme Court decision, and thereby retain a special allocation of off-shore oil revenue for coastal states, is stalled. Legislators want their states to share in revenues from fields within 200 miles of the shore, while the President is looking at a more modest 27 mile limit. End Summary.

[1](#)3. Since 1999, the Obasanjo Administration has paid the nine coastal states of Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Ondo, and Rivers a special allocation of 13 percent of petroleum revenues derived from fields off-shore. The Administration paid the allocation based on the understanding that the oil was being extracted from within the jurisdiction of these states; thus, under Section 162 (2) of the 1999 Constitution the states were entitled to this special funding (Ref. B). However, the states have clamored for greater control of oil revenue, and in February 2001 the Supreme Court heard a case between the Federal Government and Abia State on whether oil from off-shore fields belonged to the states or the Federal Government. The Supreme Court ruled that the revenue and natural resources from the continental shelf belong exclusively to the Federal Government. In particular, the ruling said the low-water mark of a state is its seaward boundary (Ref. B).

[1](#)4. Akwa Ibom and Ondo States were worst hit by the judgment, as all oil production in those two states is located offshore. The judgment created significant ill-will among leaders in these and other coastal states. In a move most observers saw as an attempt to placate these states in the run-up to 2003 elections, the Federal Government established a Presidential Committee on Political Consensus on Ways and Means of Implementing Derivation Aspects of the Supreme Court's Judgment on the Onshore/Offshore Suit. Chief Tony Anenih--former Minister of Works and Housing, unabashed back-room political deal-maker, and native of Edo State--was appointed chairman of the committee.

[1](#)5. The committee consulted with the governors of the nine coastal states, recommending the President sponsor a bill to compensate coastal states for the impact of offshore production on the environment as well as their economic activities. The committee also recommended the Federal Government continue payments (officially regarded as loans) to Akwa Ibom and Ondo States, worst hit by the Supreme Court judgment because they have no onshore oil. Payments would continue until a final solution to the problem was achieved. The Federal Government has made such payments.

[1](#)6. In August 2002, President Obasanjo sponsored a bill proposing the contiguous zone should be considered part of a state for revenue allocation purposes. The zone would include offshore wells not more than 24 nautical miles from the coast. The National Assembly passed a bill in October 2002 extending its application to the continental shelf and the Exclusive Economic Zone (EEZ), effectively giving states control over resources 200 miles from their shore lines. President Obasanjo refused to sign the bill, claiming the National Assembly's proposal ran counter to accepted international law and practice by giving the states almost full control over the EEZ and warning that it could spark hostilities between Nigeria and neighboring countries.

[1](#)7. Pursuant to a campaign promise made at the January 2003

Peoples Democratic Party Convention the President met South-South governors in February to discuss the bill. At the meeting, the President agreed to write the National Assembly requesting they reconsider the version he had submitted. During the President's campaign in the South-South, he also promised he would sign the bill if the National Assembly agreed to the more restrained version. That session of the National Assembly came to a close before it could respond to the President's overture.

18. Comment: This resource allocation issue will be one of the first orders of business when the new National Assembly convenes in early June. The new Assembly will be dominated by members of the President's party and they will likely be accommodating to the Chief Executive. How this National Assembly treats the resource allocation issue will be a legitimate test of this Administration's relationship with the new legislation. Additionally, no matter what fix is finally legislated, some of the other 21 states will be disappointed. They will likely take this matter to the judiciary for a determination on whether the legislative fix violates the 2002 Supreme Court decision. End Comment.
JETER